

Application No.: 09/656,309

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Docket No.: 564462001620

REMARKS**Status of the Claims***Pending claims*

Claims 53 to 64 are pending.

Claims canceled in the instant amendment

Claims 53 to 64 are canceled in the instant amendment, without prejudice or disclaimer.

Claims allowed

Claim 53 has been allowed.

Outstanding Rejections

Claims 54 to 64 stand newly rejected under 35 U.S.C. §103(a). Applicants respectfully traverse all outstanding rejections of the claims.

Issues under 35 U.S.C. §103(a)

Claims 54 to 64 stand newly rejected under 35 U.S.C. §103(a) as allegedly unpatentable over WO 99/07837, with an international publication date of February 18, 1999, in view of Short, U.S. Patent 5,939,250, issued August 17, 1999.

Claim 54 stands newly rejected under 35 U.S.C. §103(a) as allegedly unpatentable over WO 99/07837, with an international publication date of February 18, 1999, in view of Short, U.S. Patent 6,479,258, issued November 12, 2002, and filed January 31, 2000. Because U.S. Patent 6,479,258, is 102(e) art used in a §103(a) rejection, and both the instant application and U.S. Patent 6,479,258, are commonly owned, and the instant application was filed after November 29, 1999, U.S. Patent 6,479,258 is disqualified as prior art against the claimed invention (i.e., because the subject matter of U.S. Patent 6,479,258, and the claimed invention "were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.") 35 U.S.C. 103(c).

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While Applicants respectfully traverse the rejection, merely to expedite issuance of the allowed claim 53, claims 53 to 64, are canceled in the instant amendment, without prejudice or disclaimer.

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CONCLUSION

In view of the foregoing amendment and remarks, it is believed that the Examiner can properly withdraw the rejection under 35 U.S.C. §103(a). After entry of the instant amendment, Applicants believe all claims pending in this application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

Applicants believe that no additional fees are necessitated by the present response and amendment. However, in the event any such fees are due, the Commissioner is hereby authorized to charge any such fees to Deposit Account No. 03-1952 referencing docket no. 564462001620. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account. Please credit any overpayment to this account.

If the Examiner believes a telephone conference would expedite prosecution of this application, please call the undersigned at 858 720 5133.

Dated: September 15, 2005

Respectfully submitted,

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